

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3
4 Aerodynamics, Inc. and ADI Holdings
Company, Inc.,

5 Plaintiffs

6 v.

7 Caesars Entertainment Operating Company,
8 Inc., et al.,

9 Defendants

Case No.: 2:15-cv-01344-JAD-PAL

**Order Granting Joint Motion to Seal or
Redact and Providing Further Instruction**

[ECF No. 267]

10 The parties jointly move to seal or redact many of the exhibits that they use to support
11 their summary-judgment briefs, and parts of the briefs themselves.¹ Unless a particular court
12 record is one that is “traditionally kept secret,” there is a “strong presumption in favor of access”
13 to the record.² Parties seeking to seal a judicial record must overcome this presumption by
14 “articulat[ing] compelling reasons supported by specific factual findings” that outweigh the
15 traditional right of public access.³ Unlike with sealed discovery attached to a non-dispositive
16 motion, the “compelling reasons” standard applies with full force to dispositive motions and their
17 attachments—even those “previously filed under seal or protective order.”⁴

18 I have reviewed the sealed exhibits in camera, and I conclude that the parties have shown
19 compelling reasons to seal or redact these judicial records because they discuss, contain, or are
20 themselves either trade-secret, confidential personal-identifying, or confidential financial
21 information that, if publicly disclosed, could be used by nonparties and competitors to
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24 ¹ ECF No. 267.

25 ² *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (internal citations
26 and quotations omitted).

27 ³ *Id.* (internal citations and quotations omitted).

28 ⁴ *Id.* at 1179.

1 disadvantage the parties. Accordingly, for the reasons articulated in the parties' joint motion, IT
2 IS HEREBY ORDERED that the parties' joint motion to seal or redact [ECF No. 267] is
3 **GRANTED.**

4 I had directed the Clerk of Court to seal the briefs and exhibits that were the subject of
5 the parties' individual motions to seal until my further order.⁵ In light of my instant order
6 granting the parties' joint motion to seal or redact, a copious number of the parties' exhibits must
7 be unsealed, and some of the parties' exhibits and briefs will have to be redacted consistent with
8 this order, and then the redacted versions will have to be filed. I find that unsealing scores of
9 judicial records would impose a substantial burden on the Clerk of Court. I note that some of the
10 parties' filings do not comply with LR IC 2-2(a)(3)(A)'s direction that exhibits "must be attached
11 as separate files[,]"⁶ so they contain both exhibits that I have allowed to remain sealed and ones
12 that I have not. And I am mindful that my written decision on the parties' underlying motions
13 might need to be redacted as a result of this order.

14 With these concerns in mind, IT IS FURTHER ORDERED that the **Clerk of Court** is
15 directed to **MAINTAIN THE SEAL on ALL** of the judicial records that are currently sealed on
16 the docket in this case, and the **PARTIES ARE ORDERED** to:

17 1. Repackage the exhibits for all of their briefs into a single filing that contains an
18 appendix and is filed consistent with LR IC 2-2(a)(3)(A). By this, I mean that each party or
19 party group must create and file a single document that contains an appendix and all of the
20 exhibits that they filed with their summary-judgment briefs. So, each party or group's package
21 should contain, consistent with this order: (1) an appendix and (2) the exhibits they filed that are
22 no longer sealed, (3) cover pages for the exhibits they filed that are to remain sealed in their
23 entirety, and (3) redacted copies of exhibits they filed that are to be redacted. For the parties'
24 convenience, a table listing all of the exhibits that are to remain sealed, in whole or in part, is
25 attached to this order as Appendix A; and

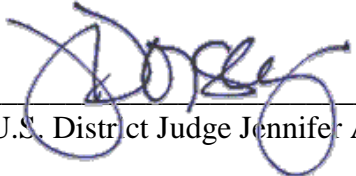
26 _____
27 ⁵ ECF No. 263.

28 ⁶ See e.g. ECF No. 255 (not rule compliant); but see ECF No. 237 (rule compliant).

1 2. Redact the parts of their summary-judgment briefs that discuss or contain
2 information that is to remain sealed consistent with this order, and file those redacted briefs. The
3 parties must state in the caption and docket text that the briefs are “redacted.”

4 IT IS FURTHER ORDERED that plaintiffs’ footnoted request that I exclude Via Reply
5 Exhibit 1 and disregard the argument related to that exhibit is **DENIED**.

6 Dated: March 28, 2018

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9 U.S. District Judge Jennifer A. Dorsey
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Appendix A

Docket Location of Exhibits that REMAIN SEALED	Parties' Description
ECF No. 214-7	Markhoff's Exhibit 3
ECF No. 214-9	Markhoff's Exhibit 5
ECF No. 214-8	Markhoff's Exhibit 4
ECF No. 214-14	Markhoff's Exhibit 10
ECF No. 237-3	Plaintiffs' Exhibit 3
ECF No. 237-4	Plaintiffs' Exhibit 4
ECF No. 237-6	Plaintiffs' Exhibit 6
ECF No. 237-9	Plaintiffs' Exhibit 9
ECF No. 237-14	Plaintiffs' Exhibit 14
ECF No. 237-15	Plaintiffs' Exhibit 15
ECF No. 237-24	Plaintiffs' Exhibit 24
ECF No. 237-30	Plaintiffs' Exhibit 30
ECF No. 237-31	Plaintiffs' Exhibit 31
ECF No. 237-32	Plaintiffs' Exhibit 32
ECF No. 237-35	Plaintiffs' Exhibit 35
ECF No. 237-41	Plaintiffs' Exhibit 41
ECF No. 237-45	Plaintiffs' Exhibit 45
ECF No. 237-46	Plaintiffs' Exhibit 46
ECF No. 237-47	Plaintiffs' Exhibit 47
ECF No. 237-50	Plaintiffs' Exhibit 50
ECF No. 237-51	Plaintiffs' Exhibit 51
ECF No. 237-52	Plaintiffs' Exhibit 52
ECF No. 237-53	Plaintiffs' Exhibit 53
ECF No. 237-59	Plaintiffs' Exhibit 59

Docket Location of Exhibits that REMAIN SEALED	Parties' Description
ECF No. 237-60	Plaintiffs' Exhibit 60
ECF No. 237-61	Plaintiffs' Exhibit 61
ECF No. 237-62	Plaintiffs' Exhibit 62
ECF No. 237-65	Plaintiffs' Exhibit 65
ECF No. 237-67	Plaintiffs' Exhibit 67
ECF No. 327-68	Plaintiffs' Exhibit 68
ECF No. 237-69	Plaintiffs' Exhibit 69
ECF No. 237-70	Plaintiffs' Exhibit 70
ECF No. 223-1	Caesars's Exhibit 1
ECF No. 223-4	Caesars's Exhibit 4
ECF No. 223-5	Caesars's Exhibit 5
ECF No. 223-6	Caesars's Exhibit 6
ECF No. 223-13	Caesars's Exhibit 13
ECF No. 223-16	Caesars's Exhibit 16
ECF No. 223-21	Caesars's Exhibit 21
ECF No. 224-1	Caesars's Exhibit 22
ECF No. 224-3	Caesars's Exhibit 24
ECF No. 224-4	Caesars's Exhibit 25
ECF No. 224-5	Caesars's Exhibit 26
ECF No. 224-8	Caesars's Exhibit 28 part 1 of 2
ECF No. 224-9	Caesars's Exhibit 28 part 2 of 2
ECF No. 224-9	Caesars's Exhibit 29
ECF No. 224-10	Caesars's Exhibit 30
ECF No. 224-11	Caesars's Exhibit 31
ECF No. 224-12	Caesars's Exhibit 32
ECF No. 224-13	Caesars's Exhibit 33

Docket Location of Exhibits that REMAIN SEALED	Parties' Description
ECF No. 224-14	Caesars's Exhibit 34
ECF No. 224-15	Caesars's Exhibit 35
ECF No. 224-18	Caesars's Exhibit 38
ECF No. 225-1	Caesars's Exhibit 39
ECF No. 225-6	Caesars's Exhibit 44
ECF No. 225-11	Caesars's Exhibit 49
ECF No. 225-9	Caesars' Exhibit 47
ECF No. 225-10	Caesars's Exhibit 48
ECF No. 225-12	Caesars's Exhibit 50
ECF No. 227-2	Exhibit 2 to Mercera Decl.
ECF No. 255	Containing Caesars's Exhibits 52, 53, 60, 54, 61
ECF No. 258-2	Caesars's Reply Exhibit B
ECF No. 265-3	Via Exhibit 3
ECF No. 247-2	Via Reply Exhibit 1
ECF No. 266-6	Via's Exhibit 6